

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ERB LEGAL INVESTMENTS, LLC,	)	
	)	
Plaintiff/Counterclaim Defendant	)	Case No. 4:20 CV 1255 DDN
	)	
v.	)	
	)	
QUINTESSA MARKETING, LLC	)	
	)	
Defendant/Counterclaim Plaintiff.	)	

**QUINTESSA, LLC’S ANSWER AND AFFIRMATIVE DEFENSES TO  
ERB LEGAL INVESTMENTS, LLC’S COUNTERCLAIMS**

COMES NOW Quintessa, LLC, d/b/a Quintessa Marketing, LLC (“Quintessa”), by and through its undersigned counsel, Behr, McCarter & Potter, P.C., and for its Answer to ERB Legal Investments, LLC’s (“ERB”) Counterclaims [Doc. #41], states as follows:

**COUNTERCLAIM #1 – ABUSE OF PROCESS**

1. Quintessa restates and incorporates by reference each of the respective responses to all prior paragraphs contained within its Answer [Doc. # 12] as if fully set forth herein.
2. Quintessa denies the allegations of paragraph 2.
3. Quintessa denies the allegations of paragraph 3.
4. Quintessa denies the allegations of paragraph 4.
5. Quintessa denies the allegations of paragraph 5.
6. Quintessa denies the allegations of paragraph 6.

WHEREFORE, Quintessa respectfully requests that this Honorable Court dismiss with prejudice ERB’s Counterclaim I, award Quintessa its Court costs incurred herein, and grant Quintessa any further relief that this Honorable Court deems just and proper under the circumstances.

COUNTERCLAIM #2 – CONVERSION

1. Quintessa restates and incorporates by reference each of the respective responses to all prior paragraphs contained within its Answer [Doc. # 12] as if fully set forth herein.

2. Quintessa denies the allegation of paragraph 2.

3. Quintessa denies the allegations of paragraph 3.

4. Quintessa denies the allegations of paragraph 4.

5. Quintessa denies the allegations of paragraph 5.

6. Quintessa denies the allegations of paragraph 6.

7. Quintessa denies the allegations of paragraph 7.

WHEREFORE, Quintessa respectfully requests that this Honorable Court dismiss with prejudice ERB's Counterclaim II, award Quintessa its Court costs incurred herein, and grant Quintessa any further relief that this Honorable Court deems just and proper under the circumstances.

AFFIRMATIVE DEFENSES

By way of further answer and as affirmative defenses, Quintessa states as follows:

1. ERB's request for remedy under a theory of conversion is barred by the economic loss doctrine as ERB is seeking to recover in tort for alleged economic losses that are contractual in nature.

2. ERB failed to plead with particularity the circumstances constituting abuse of process in accordance with USCS Fed Rules Civ Proc R 9(b).

3. ERB's Counterclaims are barred or must be reduced by the doctrine(s) of set-off, offset, and/or recoupment.

4. ERB's Counterclaims are barred by the doctrines of laches, estoppel, and unclean

hands.

5. ERB's recovery, if any, must be offset by its failure to reasonably mitigate its alleged losses.

Quintessa reserves the right to supplement its affirmative defenses hereinafter with proper leave of this Honorable Court.

WHEREFORE, Quintessa, LLC, having fully answered ERB's Counterclaims, respectfully requests that this Honorable Court dismiss ERB's Counterclaims with prejudice, for an award of costs incurred herein, and for any other and further relief that this Court deems just and proper under the circumstances.

Respectfully Submitted:

BEHR, McCARTER & POTTER, P.C.

By: /s/ Ryan M. Hyde  
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*Attorneys for Quintessa, LLC*

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court on March 25<sup>th</sup>, 2021, to be served by operation of the Court's electronic filing system upon all parties through their counsel registered with CM/ECF.

/s/ Ryan M. Hyde